

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

AXA EQUITABLE LIFE INSURANCE COMPANY
COI LITIGATION

This Document Relates To All Related Actions

No. 16 Civ. 740 (JMF)

No. 17 Civ. 4767 (JMF)

No. 17 Civ. 4803 (JMF)

No. 17 Civ. 9355 (JMF)

No. 18 Civ. 2111 (JMF)

No. 18 Civ. 10730 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

This Court received from Defendant AXA Equitable Life Insurance Company (“AXA Equitable”), the Plaintiffs in the *Brach* Action (“*Brach* Plaintiffs”), and Plaintiffs in the other Related Actions¹ (“Opt-Out Plaintiffs”) proposals for the structure and schedules for the parties’ summary judgment motions and *Daubert* motions. See 16-CV-740, ECF Nos. 389, 390, 393. This Order memorializes the Court’s Order, dated January 21, 2020 (16-CV-740, ECF No. 394), regarding the parties’ proposals. It is hereby ORDERED that:

I. SUMMARY JUDGMENT MOTIONS

The parties shall consolidate the briefing of their summary judgment motions, such that there is one set of briefs relating to the *Brach* Plaintiffs’ claims and one set of briefs relating to

¹ The Related Actions are *Brach Family Foundation, Inc. v. AXA Equitable Life Insurance Company*, No. 16 Civ. 740 (S.D.N.Y.); *EFG Bank AG, Cayman Branch v. AXA Equitable Life Insurance Company*, No. 17 Civ. 4767 (S.D.N.Y.); *The Duffy 2004 LLC v. AXA Equitable Life Insurance Company*, No. 17 Civ. 4803 (S.D.N.Y.); *Croft Irrevocable Trust v. AXA Equitable Life Insurance Company*, No. 17 Civ. 9355 (S.D.N.Y.); *LSH CO v. AXA Equitable Life Insurance Company*, No. 18 Civ. 2111 (S.D.N.Y.); *Eunice Peterson Family Partnership, LLLP v. AXA Equitable Life Insurance Company*, No. 18 Civ. 10730 (S.D.N.Y.).

the Opt-Out Plaintiffs' claims. The parties' summary judgment briefs will be subject to the deadlines and page limits set forth below:

BRIEFS	DEADLINE	PAGE LIMIT
AXA Equitable's Motion for Summary Judgment as to <i>Brach</i> Plaintiffs' Claims	The later of (1) 45 days after the Court's ruling on <i>Brach</i> Plaintiffs' pending motion for class certification or (2) 14 days after the end of any opt-out period	60 pages
AXA Equitable's Motion for Summary Judgment as to Opt-Out Plaintiffs' Claims	The later of (1) 45 days after the Court's ruling on <i>Brach</i> Plaintiffs' pending motion for class certification or (2) 14 days after the end of any opt-out period	50 pages
<i>Brach</i> Plaintiffs' Opposition to AXA Equitable's Motion and Cross-Motion for Summary Judgment (supported by a consolidated memorandum of law)	60 days after AXA Equitable's Motion is filed	60 pages
Opt-Out Plaintiffs' Consolidated Opposition to AXA Equitable's Motion and Cross-Motion for Summary Judgment (supported by a consolidated memorandum of law)	60 days after AXA Equitable's Motion is filed	60 pages
AXA Equitable's Opposition to <i>Brach</i> Plaintiffs' Cross-Motion and Reply in Support of Its Motion	60 days after <i>Brach</i> Plaintiffs' Opposition and Cross-Motion is filed	45 pages
AXA Equitable's Opposition to Opt-Out Plaintiffs' Cross-Motion and Reply in Support of Its Motion	60 days after Opt-Out Plaintiffs' Opposition and Cross-Motion is filed	40 pages
<i>Brach</i> Plaintiffs' Reply in Support of Their Cross-Motion	30 days after AXA Equitable's Opposition is filed	30 pages
Opt-Out Plaintiffs' Reply in Support of Their Cross-Motion	30 days after AXA Equitable's Opposition is filed	25 pages

II. DAUBERT MOTIONS

The parties shall consolidate the briefing of their *Daubert* motions, such that there is one set of briefs relating to the *Brach* Plaintiffs’ and Opt-Out Plaintiffs’ expert witnesses and one set of briefs relating to AXA Equitable’s expert witnesses. The parties’ *Daubert* briefs will be subject to the deadlines and page limits set forth below:

BRIEFS	DEADLINE	PAGE LIMIT ²
AXA Equitable’s Consolidated <i>Daubert</i> Motion with Respect to <i>Brach</i> Plaintiffs’ and Opt-Out Plaintiffs’ Expert Witnesses	30 days after AXA Equitable’s Summary Judgment Motions are filed	5-page introduction; 15 pages per actuarial expert; ³ 10 pages per non-actuarial expert
<i>Brach</i> Plaintiffs’ and Opt-Out Plaintiffs’ Consolidated Opposition to AXA Equitable’s Consolidated <i>Daubert</i> Motion	60 days after AXA Equitable’s Consolidated <i>Daubert</i> Motion is filed	5-page introduction; 15 pages per actuarial expert; 10 pages per non-actuarial expert
AXA Equitable’s Reply in Support of Its Consolidated <i>Daubert</i> Motion	30 days after <i>Brach</i> Plaintiffs’ and Opt-Out Plaintiffs’ Consolidated Opposition to AXA Equitable’s Consolidated <i>Daubert</i> Motion is filed	10 pages per actuarial expert; 5 pages per non-actuarial expert
<i>Brach</i> Plaintiffs’ and Opt-Out Plaintiffs’ Consolidated <i>Daubert</i> Motion with Respect to AXA Equitable’s Expert Witnesses	60 days after AXA Equitable’s Consolidated <i>Daubert</i> Motion is filed	5-page introduction; 15 pages per actuarial expert; 10 pages per non-actuarial expert
AXA Equitable’s Opposition to <i>Brach</i> Plaintiffs’ and Opt-Out Plaintiffs’ Consolidated <i>Daubert</i> Motion	60 days after <i>Brach</i> Plaintiffs’ and Opt-Out Plaintiffs’ Consolidated <i>Daubert</i> Motion is filed	5-page introduction; 15 pages per actuarial expert; 10 pages per non-actuarial expert
<i>Brach</i> Plaintiffs’ and Opt-Out Plaintiffs’ Reply in Support of Their Consolidated <i>Daubert</i> Motion	30 days after AXA Equitable’s Opposition to <i>Brach</i> Plaintiffs’ and Opt-Out Plaintiffs’ Consolidated <i>Daubert</i> Motion is filed	10 pages per actuarial expert; 5 pages per non-actuarial expert

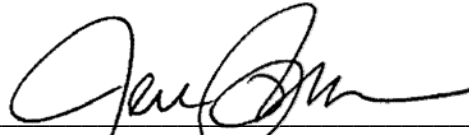
² The page limits for each expert shall not rollover from one expert to another expert—*e.g.*, if a party uses only eight of its ten pages for a given expert, that party may not allocate the extra two pages to any other expert.

³ The “actuarial experts” for purposes of the *Daubert* motion page limits are Timothy Pfeifer, Jeremy Brown, and Carl Harris.

The Clerk of Court is directed to docket this Order in 16-CV-740 (JMF) and all related/member cases.

SO ORDERED.

Dated: January 29, 2020
New York, New York



JESSE M. FURMAN
United States District Judge